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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,385	02/01/2002	John R. Fredlund	83803SLP	2388

7590 09/21/2006
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EXAMINER

JERABEK, KELLY L

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/061,385	Applicant(s) FREDLUND ET AL.	
	Examiner Kelly L. Jerabek	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 11-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-10 and 32-35 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 and 32-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Baum et al. US 7,082,227.

Re claim 1, Baum discloses a method of processing a digital image for user assessment of an output image product intended to be generated using the digital image comprising the steps of: accessing the digital image using an imaging device (20)

Art Unit: 2622

having a viewing member (col. 5, line 58-col. 6, line 11, col. 7, lines 17-36); selecting the output image product (mugs, cards, etc.) intended to include the digital image; digitally modifying at least a portion of the accessed digital image using the imaging device, the modification being based on parameters (62 customer specific preference data) of the selected output product which impact on the appearance of the digital image in the output image product, to generate an adjusted digital image which represents how the accessed digital image would appear in at least a portion of the output image product (col. 6, lines 25-55); and displaying using the viewing member, for assessment by the user, the adjusted digital image of at least a portion of the output image product (col. 7, lines 17-36; col. 8, lines 13-30; col. 10, lines 13-33).

Re claim 2, Baum states that the digital image is accessed by capturing the digital image using a digital camera (col. 5, lines 58-67).

Re claim 3, Baum states that the imaging device is a kiosk (col. 6, lines 1-11) and the step of accessing the digital image may be accomplished by accessing the digital image from a removable medium (col. 10, lines 13-33).

Re claim 4, Baum states that the digital image is accessed by scanning a visual image to produce the digital image (col. 5, lines 65-67).

Art Unit: 2622

Re claim 5, Baum states that digital images are accessed by downloading digital images over a communication network (internet) (col. 5, lines 58-67).

Re claim 6, Baum states that digital images may be accessed from a removable media (flash memory card) (col. 10, lines 13-33).

Re claim 7, Baum states that the step of accessing the digital image may be accomplished by accessing the digital image from a digital camera in communication with the imaging device (col. 5, lines 58-67).

Re claim 8, Baum states that the viewing member is a display (col. 8, lines 13-30; col. 10, lines 13-33).

Re claim 9, Baum discloses a printer (70) adapted to produce a hardcopy print (col. 6, lines 25-55).

Re claim 10, Baum states that the imaging device is a digital camera, and the step of selecting the output image product is accomplished by storing a captured image in the digital camera (col. 5, lines 58-67).

Art Unit: 2622

Re claim 32, Baum discloses a computer storage medium (25) having instructions causing one or more computers (20,35,116) to perform the method of claim 1 (col. 5, line 58-col. 6, line 55).

Re claim 33, Baum discloses an imaging device (20) for processing a digital image for user assessment of an output image product intended to be generated using the digital image, comprising: input means (27) for accessing the digital image; selection means (20) for selecting the output image product intended to include the digital image; processing means (60) for digitally modifying at least a portion of the accessed digital image using the imaging device, the modification being based on parameters of the selected output product which impact on the appearance of the digital image in the output image product, to generate an adjusted digital image which represents how the accessed digital image would appear in at least a portion of the output image product (col. 5, line 58-col. 7, line 36); and a viewing member for displaying the adjusted digital image of the at least a portion of the output image product for assessment by the user (col. 7, lines 17-36; col. 8, lines 13-30; col. 10, lines 13-33).

Re claim 34, Baum discloses a query means (64 print job) for querying the user as to whether to generate the output image product (col. 6, lines 25-55).

Re claim 35, Baum states that the viewing member is zoomed into a portion of the adjusted digital image to enable a user assessment of whether sharpness of the adjusted digital image is adequate for the user's needs (col. 8, lines 13-30).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is (571) 272-7312. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for submitting all Official communications is (703) 872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (571) 273-7312.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ



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